

MYSORE BOARD OF REVENUE BILL, 1954.

Motion to consider (contd.).

ಶ್ರೀ ಜಿ. ಬಿ. ಬಸಪ್ಪ (ತರೀಕೆರೆ).—ಸ್ವಾಮಿ, ಒಂದು ವಿಷಯ ತಿಳಿದುಕೊಳ್ಳಬೇಕಾಗಿದೆ. ಈ ರೆವಿನ್ಯೂ ಬೋರ್ಡ್ ಬಿಲ್ವನಲ್ಲಿ ಸೇಲ್ಸ್ ಟ್ಯಾಕ್ಸ್‌ನೂ ಸೇರಿಸಿ ಕೊಂಡು ಅಪೀಲಿಗೆ ಅವಕಾಶ ಮಾಡಿದ್ದೀರಿ. ಇದಲ್ಲದೆ, Sales Tax Amendment Bill ಎಂದು ಬೇರೆ ತಂದು Sales Tax Tribunalಗೆ ಅಪೀಲ್ ಮಾಡುವುದಕ್ಕೆ ಬೇರೆ ಅವಕಾಶ ಮಾಡುತ್ತಿದ್ದೀರಿ. ಇವೆರಡೂ ಏಕೆ ಎಂಬುದನ್ನು ತಿಳಿಸಬೇಕು.

ಶ್ರೀ ಕಡಿದಾಳ್ ಮಂಜಪ್ಪ (ರೇವೆನ್ಯೂ ಮತ್ತು ಮರಾ ಮತ್ತು ಶಾಖೆಗಳ ಮಂತ್ರಿಗಳು).—ಟ್ರಿಬ್ಯೂನಲ್‌ನ ಮುಂದೆ ಬೇಕಾದರೂ ಅಪೀಲ್ ಹೋಗಬಹುದು. ಅದಿಷ್ಟಲ್ಲದೆ ರೆವಿನ್ಯೂ ಬೋರ್ಡ್‌ಗೆ ಬೇಕಾದರೂ ಅಪೀಲ್ ಹೋಗಬಹುದು. ಎರಡೂ alternative remedies ಆಗಿವೆ.

Sri J. MOHAMED IMAM (Jagalur).—I want to know one thing. How far the Government have made provision about the revision; whether the awards or the judgment given by the Tribunal or the Board are final; or whether the Government has still retained the power of revision?

Sri Kadidal MANJAPPA.—Under Clause 6 of the Bill, provision has been made for preferring revision petitions to Government against the decision of the Board in regard to all matters excepting those mentioned in the schedule. In the schedule there is a list of matters in which the decision of the Board will be final and no revision petition can be preferred against the decision of the Board.

Sri J. MOHAMED IMAM.—Regarding the personnel of the Revenue Board, it is stated that the appointment of the judicial officer or any other officer is optional; it is left to the Government to appoint a judicial officer. Our contention was that the member of the Committee must always be a judicial officer—either a District Judge or a retired High Court Judge. I think that change must be made here in the interest of the Board. Because, as it is, the Revenue Commissioner, the Excise Commissioner and the Commissioner for Local Self-Government, these three officers are the standing members; and District Judge or a person qualified to be a judge of the High Court or any

other officer whose appointment is left to the discretion of the Government. They may find a place or they may not find a place here. So I would like to point out that it is healthy and it will be for the benefit of the Board always to have a District Judge, and preferably I would suggest that a senior judge or even a retired High Court Judge, so that he may be the Chairman of the Board. That is one point to be considered.

Matter of Privilege.

Sri M. V. RAMA RAO (Tumkur).—I want to bring to the notice of the Chair a matter affecting the privilege of this House. This House is aware that the Budget was presented at 1 p.m. and copies of the speech and the Budget proposals have been distributed to the Members when they re-assembled at half past three of the clock, and I find that the newspaper entitled "Daily Post" has had the opportunity to print and publish the entire contents of the Budget speech as well as the proposals much earlier than the Hon'ble Members of this House have had the opportunity to get at the copies of the Budget speech and the Memorandum. This, I should like to say, is a serious breach of the privilege of this House collectively and the privilege of every Hon'ble Member of this House. And as it is a matter of considerable importance and in my view, a serious breach of the privilege of this House, I request the Chair to take notice of this matter and to deal with it as the Chair thinks proper.

Mr. DEPUTY CHAIRMAN.—Are you moving the Privilege Motion?

Sri M. V. RAMA RAO.—I am actually inviting the attention of the Chair to this fact and I shall hand in a written notice of motion if the Chair so directs.

Mr. DEPUTY SPEAKER.—Will you please give your Privilege Motion in writing so that we can examine?

Sri M. V. RAMA RAO.—I shall put it in writing. I have got the copy of the newspaper now. It is being sold near the premises of the Assembly.

Mr. DEPUTY SPEAKER.—I think we can go on with the Revenue Board Bill now.

MYSORE BOARD OF REVENUE BILL, 1954

Motion to consider (contd.)

Sri R. ANANTARAMAN (Chamarajapet).—Mr. Speaker, provision is made in this Bill about the revision of the order passed by the Revenue Board. But I find there is nothing about the revision of the orders passed by the Minister.

Sri P. R. RAMAIIYA (Basavangudi).—Mr. Speaker, I cannot hear what the Hon'ble Member is speaking.

Sri R. ANANTARAMAN.—Mr. Speaker, in this Revenue Board Bill luckily some provision is made for the review of the orders passed by the Board. But the Hon'ble Minister during the previous session promised that amendment will also be made to review the orders passed by the Revenue Minister. I want to know whether it has not been so passed? He knows that according to the decision of our own High Court there is no provision in the Revenue Act to review the order passed by the Minister or the Deputy Commissioner or the Sub-Division Officer. So it is high time, that the Minister will give attention towards that. And the second thing that I want to bring to the notice is, in this Bill so many persons have to be appointed as the members of the Board. I was not here when the Hon'ble Leader of the Opposition was speaking. It is better that a District Judge and a non-official who can be appointed as a High Court Judge, be appointed instead of having the Revenue Commissioner, the Excise Commissioner and the Local Self-Government Commissioner. Because, I learn they will be having a lot of work. I do not know whether they will find time to sit in the court and hear the appeals; it will be very difficult for them. I learn also Sir, those officers have expressed their views that it is not possible for them to sit as regular judges.

L.A.

Sri Kadidal MANJAPPA.—They are in full agreement with the provisions of this Bill.

Sri R. ANANTARAMAN.—So, it is better that only two members should constitute the Board rather than having all these persons. Then only some full justice will be given to the clients. Otherwise, it will be impossible for them to go to the Court. Supposing the cases are posted twice in a week or twice in a month or once in a fortnight, it will be very difficult for them to attend the court. It is better that this court should be held just like regular courts from 2 P.M. to 5 P.M. or from 11 A.M. to 2 P.M. and the appeals are disposed of as expeditiously as possible. No doubt, according to the Revenue Minister, he has disposed of all the appeals. It is very necessary that only two members should constitute the Board instead of having a large number of persons. And provision is made for a member of the Board to grant stay and to pass some interim orders on the interim applications. That is a very good provision. Supposing the application is put up before the Board, it will be very difficult for the parties to get a stay order or any interim order passed. So, I think the provision made in this Bill for a judge to sit regularly and to pass orders on this interim application is quite laudable. With these few words, Sir, I wholeheartedly approve this, Bill.

Mr. DEPUTY SPEAKER.—Can I take it that there is nobody to speak?

Sri J. MOHAMED IMAM.—Is it not possible to provide for appeal or review to the High Court from the decisions of the Board? As a matter of abundant precaution, is it not possible, in certain cases at least, to provide for revision, if not appeal to the High Court—in certain matters where question of law is involved such as succession and other things? A very important question can come up, a very important question involving law may have to be decided. For example, there is the question of succession to the place of Patel or Shanbhogue and many hereditary rights are involved. So in all such cases, instead of making it final, why not we make a provision that where a question

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 offlaw is involved or where important matters are concerned, the matter may be taken up in appeal to the High Court? It will be a healthy move.

Sri Kadidal MANJAPPA.—As regards the points raised by my friend, Sri Imam, there is an amendment to the Clause providing for the appointment of members of the Board. Personally, I have no objection to make it obligatory on the part of the Government to appoint a District Judge or a person qualified to be a Judge of the High Court. We will consider this matter when the amendment is taken up.

As regards the point that provision should be made for an appeal to the High Court, I would like to draw the attention of the Hon'ble Member to article 226 of the constitution, which gives adequate relief to the party and the High Court under article 227 has got powers of superintendence over all the tribunals including this. Therefore, there is no need for providing an appeal to the High Court because a District Judge will be there and in certain cases, if the party is affected, he can take advantage of article 226. These are matters which involve questions of administrative as well as judicial aspects. I do not think there is need for providing for appeals to the High Court.

Sri K. PATTABHIRAMAN (Kolar).— I am seeking a clarification from the Hon'ble Minister. The Hon'ble Leader of the Opposition has made out a point that as the work of this Board which is going to be constituted as a result of this legislation is going to be such as to involve highly judicial matters, matters concerning the status and the rights of parties, particularly under the Village Offices Act, it should not be that the first appellate body or the first original body as the case may be should be almost the deciding body on a matter of that kind. That raises a question of principle also where justiciable matters or such matters as affect the personal rights of individuals are concerned, there should always be a provision for a first appeal.

The Hon'ble Minister for Revenue seems to assure himself that article 226 of the Constitution meets the contingency in view, but I am afraid my reading of article 226—possibly I may be wrong lends itself to a different interpretation altogether. Article 226 will apply where a certain body which otherwise is competent to handle a matter, has not done so, or, in other words, where there is an excess of jurisdiction or the use of a jurisdiction which does not vest in a particular body, it has nevertheless been exercised by that body, article 226 can be invoked and the High Court can say either by the *quo warranto* or other appropriate writs under article 226: 'This body which did not have this jurisdiction has nevertheless exercised it. To that extent the proceedings are *ab initio* void.' What the Leader of Opposition has in view is a straightaway appeal on merits. Suppose it is found that a particular decision is not correct. Then in such a case, article 226 will not be of avail. Therefore, the request to the Hon'ble Minister, if I have understood the mind of the Leader of Opposition aright, is, provide for a first appeal against a decision of the Board, irrespective of the competence or otherwise of the invocation of the High Court's jurisdiction and powers under article 226 read along with article 227. I personally see there is absolutely no reason why this has not been done. In fact, if I may say so, without meaning any disrespect to the Minister, there is this tendency of taking away rights which ordinarily are those of the law courts. Why do you want quasi-judicial bodies to encroach upon the powers which are legitimately and really of the courts? Therefore, considering both these aspects, I appeal to the Minister through you to provide for this appeal which will give satisfaction to the client and what is more, the very framework of legislation when it is looked at even on a theoretical basis, will give satisfaction to a person to say: 'Here is a first appeal to the highest judicial body. Can there be a higher seat of justice than the High

Court? There is an appeal to the highest judicial body.' It gives entire satisfaction and I personally feel there should be no reason why Government should hesitate and not accept a suggestion of this kind which is very welcome and very wholesome as coming particularly from the Leader of the Opposition.

Mr. DEPUTY SPEAKER.—I think he said if law is involved, an appeal to the High Court may be provided for, not on merits.

Sri J. MOHAMED IMAM.—Appeal means merits also.

Sri K. PATTABHIRAMAN.—I want to amplify it a little further. Not only provide for a contingency of going to the High Court in cases where there is an error of law, but even ordinarily provide a first appeal to the highest court. That will give satisfaction to the party. Here is a quasi-judicial body engaged in decision and there is also the correcting or the appellate body like the High Court perfecting it altogether. It will give satisfaction to the clientele and it will be to the credit of this Government to make a provision of this kind. All things considered, I feel this suggestion as made out by the Leader of Opposition will commend itself to the Hon'ble Minister.

Sri G. A. THIMMAPPA GOWDA (Arkalgud).—I want to know whether such a change has been made in any other State.

Sri K. PATTABHIRAMAN.—I am afraid my friend from Arkalgud should understand the position. If you are thinking of the analogy of a legislation of this kind from Madras, the matters are entirely different. Fortunately—and in fact I may congratulate this Government—this legislation goes much beyond the scope of similar set up both in Bombay and in Madras. If you take such a big step, why do you fall short of not completing it?

Sri B. NARAYANASWAMY (Mysore City—South).—If we have to accept what Sri Pattabhiraman just now submitted, then in that case, in the Bill provision is made for revision to Government. In any case, if we have

to give an appellate jurisdiction to the High Court, the question of revisional power to Government has to be given up. I think during the last discussion when it came up for consideration, the opinion of the members was that Government should have some hand in matters that come up before the Board of Revenue. It is with that object in view I hope that the Members of the Joint Select Committee, who kept that point in view, did not think of including the High Court for the appellate jurisdiction and I would like to know from the Minister whether I am correct in what I have said regarding the opinion that many of the members wanted that Government should not give up their entire hold in revenue matters that come up before the Board of Revenue. I feel they should have powers of revision. I think I myself spoke on this Bill at the time when it came up for consideration and I said that Government should have power of Revision. Perhaps my friend Sri K. Pattabhiraman himself was also a member of the Joint Select Committee. (*Sri K. Pattabhiraman.*—No). The members of the Joint Select Committee kept that in view and that is why jurisdiction of the High Court has not been invoked. I personally feel that Government should consider whether they should not leave this appellate power to the High Court because the High Court is the highest judiciary in Mysore State. It is better that just to infuse greater confidence in the public that an appeal . . . (*Interruption*). My friend Sri K. Puttaswamy wants to put certain things in my mouth, which I did not say. I never meant that the people have no confidence in the Government; but greater confidence will be placed by people if a matter like this, which is purely justiceable and juridical in nature, is left to the High Court and it is for the Government to say whether it is proper or not.

***Sri K. PUTTASWAMY** (Srirangapatna).—I rise to oppose the suggestion made of giving revisional powers to the High Court. The argument that is just now advanced goes to show that the Hon'ble Members who made this suggestion doubt the

* Asterisk indicates that the speech has not been revised by the Member concerned.

(SRI K. PUTTASWAMY.)

integrity of the Government. (Sri B. Narayanaswamy.—*I never said that.*) or are not prepared to place so much of confidence in the Government and they would like to place confidence in the judiciary. The matters that come under the purview of the Revenue Board are such as where the Government has more intimate knowledge than the High Court, and, even the Revenue Board as sought to be constituted would be having one of the persons who would be competent to be appointed as a District Judge or a District Judge himself and the other members are persons who would have gone through the various stages, who have had a lot of experience in the various departments and as such there is absolutely no reason to doubt that they would go wrong and even if they go wrong in any matter, the Government can set it right by exercising its revisional powers in certain cases, and there is absolutely no force in the argument advanced by the Hon'ble Member who pleaded that revisional powers should be vested in the High Court and not in the Government. Therefore, I feel that the present proposal may be accepted as recommended by the Select Committee.

Sri Kadidal MAÑJAPPA.—On a previous occasion I had the privilege of answering the point now raised. Under the Constitution, the functions of the Judiciary, the Executive and the Legislature have been definitely defined. The Legislature has got certain defined functions. So also the Executive and so also the Judiciary. The Executive power of the State is vested in the Governor or the Rajpramukh to be exercised through his officers and through the Ministers. The Legislature ought to be supreme in its own domain; the Judiciary should also be supreme in its own domain and the Executive should be supreme in its own domain. The powers that will be exercised by the Board are powers vested in Government. The Government is delegating these powers to the Board. Therefore, it is not necessary for the Judiciary to interfere in the day

to day executive functions of the Government.

4 P.M.

If this analogy can be extended further, it is quite possible to argue that instead of the Deputy Commissioner and the Amildar there must be appointed a Judicial Officer to exercise the functions of the Executive Officers and to interpret the enactment and rules. Therefore, I must bring to the notice of the Hon'ble Members that nowhere in India, if I remember and if my knowledge is correct, an appeal has been provided to the High Court against the decisions of the Board. This is the first time we establish a Board in Mysore. Let us study the working of the Board. If the Hon'ble Members afterwards feel that there should be an appeal to the High Court in certain cases, we can consider. Now, I think, as rightly observed by my friend Sri K. Puttaswamy, there is no need for providing an appeal to the High Court.

Sri R. Anantaraman suggested that the Government should have powers to review their own orders. Under the scheme of the Bill, the decisions of the Board are final and no appeal lies against the decisions of the Board. In certain cases, revision lies to Government. It is not proper to review the orders passed by Government on a revision petition. Further, it is not the intention of the Government to review their own orders, when there is already review power vested in the Board.

Sir, last time I was asked to file a financial memorandum. As the Bill was originally drafted, there was no provision for appointing a District Judge and there was no extra financial liability. The Select Committee has amended the Bill to provide for the appointment of a District Judge which involves some additional expenditure. Therefore, I file the financial memorandum. I will just read out.—